

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
WILLIAM S. AND CAMILLA A. ANDREWS)

Appearances:

For Appellants: William S. Andrews, in propria
persona

For Respondent: A, Ben Jacobson, Associate Tax
Counsel

O P I N I O N

This appeal was made pursuant to Section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of William S. and Camilla A. Andrews against a proposed assessment of additional personal income tax in the amount of \$23.87 for the year 1954. Since the filing of the appeal, the Appellants have paid the tax protested together with interest in the amount of \$5.50. Pursuant to Section 19061.1, the appeal will therefore be treated as from the denial of a claim for refund.

Appellant William S. Andrews is an attorney at law, He and his wife filed a joint return for the year 1954, claiming as a deduction an allowance for depreciation of a new Austin-Healy automobile purchased in that year at a cost of \$3,183.05 for use in his law practice. The allowance amounted to one-half the purchase price of the automobile, having been computed by the "200% declining balance method," based upon an estimated useful life of four years. This method of computation assumed that the rate at which the automobile depreciated during the first year of use was 200% of a uniform, annual rate over four years.

The Franchise Tax Board determined that the claimed allowance was unreasonable. Using the "straight line method," which assumed a uniform, annual rate of depreciation over four years, it recomputed the allowance. The result was an amount equal to one-fourth the purchase price of the automobile. The Franchise Tax Board has not raised any question as to whether the automobile, a sportcar, was used entirely for business purposes.

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Fed. Reg. 118,) Under the former Federal law and regulations, the declining balance method was allowed to certain types of taxpayers but at a rate generally limited to 150% of what would have been deductible under the straight line method.

Use of the declining balance method at a higher rate was not presumed to be reasonable. This is pointed out in a report of the Senate with respect to the Internal Revenue Code of 1954. (See S. Rept. No. 1622, 83d Cong., 2d Sess., p. 201, 1954, U. S. Code Cong. & Adm. News, p. 4836.) That report indicates that only with the enactment of Sec. 167(b) of the Internal Revenue Code of 1954 was an allowance, computed by the "200% declining balance method," generally accepted as reasonable. Not until 1959 did the California Legislature adopt a provision similar to Section 167(b). (See Section 17208 of the Revenue and Taxation Code.) It is thus apparent that the "200% declining balance method" was not sanctioned as reasonable per se under our law during the year in question, 1954.

Appellants have submitted (1) the affidavit of an accountant who said that the declining balance method was reasonable and appropriate to use in accounting for the depreciation of automobiles, and (2) the affidavits of two businessmen acquainted with automobile sales who asserted, respectively, that a year-old car, on an average, is worth at least 30% to 40% less than its original selling price, and that Appellants' year-old car "based on current blue book values and current market values at date of discussion in 1958" would have been worth on resale about 40% less than its value new. It is obvious that these affidavits do not support the claim of Appellants that their automobile had depreciated 50%. Nor are we convinced by this showing that an allowance should be made in any amount exceeding that allowed by the Franchise Tax Board.

O R D E R

Pursuant to the views expressed in the Opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to Section 19060 of the Revenue and Taxation Code, that the

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action of the Franchise Tax Board in denying the claim of William S, and Camilla A, Andrews for refund of personal income tax in the amount of \$23.87 for the year 1954, plus interest in the amount of \$5.50, be and the same is hereby sustained,

Done at Sacramento, California, this 16th day of December, 1959, by the State Board of Equalization.

Paul R. Leake, Chairman

George R'. Reilly, Member

John W. Lynch, Member

Richard Nevins, Member

_____, Member

ATTEST: Dixwell L. Pierce, Secretary